

**MINUTES of the March 22, 2006
Concession Management Advisor Board
15th Meeting**

TO: All Board Members
FROM: Jo A. Pendry, Concession Program Manager
SUBJECT: Draft Minutes of Concessions Management Advisory Board Meeting March 22, 2006.

1. Call to Order.

The meeting was called to order by Chair Allen Naille at the Wyndham Washington Hotel at 8:30 a.m.

2. Roll Call.

Present were: Board Members Burt Weerts, Jim Eyster, Phil Voorhees, and Chair Allen Naille.

Absent were: Board Members Dick Linford and Ramona Sakiestewa.

3. Welcome.

Jo Pendry announced that the meeting was held under the authority of Public Law 105-391.

Chair Naille welcomed the attendees and asked everyone to introduce themselves. Introductions were made by all attendees of the meeting.

4. Approval of the Minutes of August 25, 2005.

Board Member Voorhees moved, seconded by Board Member Weerts to adopt the August 25, 2005 minutes. The motion carried unanimously.

Chair Naille requested an addition to the Minutes, and explained that Mr. Randy Jones had requested the Board to take a look at the Guest Lodge Donation Program. The reason it is not in the Minutes is that the Park Service is presently reviewing Director's Order 21 and it may be better to wait for that review process to take hold.

Board Member Eyster moved, seconded by Board Member Weerts to adopt the Chair's addition to the Minutes. The motion carried.

5. Federal Regulatory Process Overview.

Chick Fagan, Deputy Chief, Office of Policy, WASO explained that his office, in addition to doing the policy

function for the Service, also administers those aspects of the Federal Advisory Committee Act that involve chartering, boards and commissions. The National Park Service has many policies, but not all of them carry the force and effect of the law. Policies in the Park Service cannot be enforced unless they are adopted through the rule-making process, resulting in important regulatory functions.

The regulations are important in that they explain to stakeholders, the general public, how programs will be implemented. When Congress gives NPS responsibility for administering a program such as the National Register of Historic Places, the National Natural Landmarks Program, the Property Leasing Program, NPS will have to figure out how to best implement that law, adopting it as a regulation, a rule-making, and publish it in the Code of Federal Regulations. In the case of the Park Service, its regulations are published in Title 36 of the Code of Federal Regulations. Part of the rule-making process is that citizens have a right to know about it and to comment on it through a fair and open process.

The internal management of the Park Service does not necessarily have to go through the rule-making process, however, if policies will affect stakeholders or citizens, NPS routinely puts a notice in the *Federal Register* providing opportunity for public review and comment.

Mr. Fagan referred to a hand-out by John D. Graham, Ph.D., Administrator, Office of Information and Regulatory Affairs, containing a more concise explanation of how OMB sees its role. He went on to provide detailed information about the rule-making process and the steps involved in the process. He mentioned an important, relatively recent addition to the rule-making process, what is called Alternative Dispute Resolution, ADR. If a rule-making process is generating a dispute, NPS can create an advisory committee, an ADR Advisory Committee consisting of skilled negotiators and facilitators who will try to come up with a proposed rule on which there would be consensus.

6. Leasehold Surrender Interest Status and Proposed LSI Process. Geoff Baekey from PriceWaterhouseCoopers presented an update on the leasehold surrender interest tracking tool that the Park Service is developing. This is an internal tool for the Park Service employees to use to track leasehold surrender interest under today's rules. He stressed it was important to understand the focus of this

presentation because he would be speaking about some of the ideas and proposals that are in place to modify the current regulations which guide the crediting of leasehold surrender interest for investments in real property.

He explained he would be making this presentation through slides that would show the way in which concessioners get compensated for leasehold surrender interest in real property assets. It would detail some of those crediting techniques, talk about the definition of the ways in which one would get credit for leasehold surrender interest, and essentially the presentation will culminate with an overview of a draft tool that would help the Park Service track leasehold surrender interests in these assets.

He explained this is a work in progress where he may have answers to many questions, but probably not all questions. Mr. Baeky presented detailed information on the following items:

1. Outline of Major Amendments to 36 CFR Part 51 required for implementation of LSI recommendations of the Concessions Management Advisory Board

- Board Recommendations Summary:
 - Recommendation #1: LSI Crediting: Source of Funds
 - Recommendation #2: Allocation of LSI to building and component level
 - Recommendation #3: Managing LSI: Tracking the base value and depreciation
- Key Issues:
 - Removal of "50 percent" rule and related definition
 - Allow for LSI credit for improvements to existing structures
 - LSI credit based on source of funds
 - Provide for LSI allocation to building and component level
- Major Amendments - Part 51:
 - Definitions to be deleted (50% rule)-
 - . Major Rehabilitation
 - . Pre-Rehabilitation value
 - . Replacement Cost
 - Definition to be added
 - . Repair and Maintenance
 - Provide for allocation of LSI on a building by building and building component basis

- o Eliminate reference to "major rehabilitations" (the 50% rule)
- LSI Crediting for Source of Funds:
 - o Provide that CFIP and other concessioner-funded improvements to existing structures will be credited to LSI
- Improvements funded out of Repair and Maintenance Reserve will not be credited to LSI
- LSI Crediting: Repair and Maintenance Reserve
 - o Conforming amendments to Repair and Maintenance Reserve
 - o Concessioner may choose to fund needed improvements with its own funds with NPS approval, or may utilize funds contained in Repair and Maintenance Reserve
 - o Unexpected balance (if any) in the Repair and Maintenance Reserve account will be paid to NPS as additional franchise fee

With regard to Recommendation #3, Mr. Baekey emphasized that this is an internal tool for the Park Service to track their obligation relative to Leasehold Surrender Interest. Leasehold has a tremendous impact on the economic viability of many of the concession contracts, and it is very necessary to perpetually track Leasehold Surrender Interest.

The tools are intended to track Leasehold Surrender Interest on a contract by contract basis with roll-up capabilities to the regional and WASO level. The fundamentals of the tool are based on Public Law 105-391 and the supporting regulations as contained within 36 CFR Part 51.

With regard to real property, LSI is then allocated to the building level and to the component level of the building. Through the life cycle of LSI, there are certain events that occur that a concessioner gets credit for relative to LSI, and under the current rules, it is a CFIP project or a Concession Facility Improvement Program project, which is a contractual obligation that a concessioner has to invest capital in an improvement to the facilities.

There are other eligible projects, many of which may be unforeseen at this time, whereby CFIP may be created during the term of a contract for which credit may be given, and then per the rules there is a CPI adjustment

factor that is provided that escalates the value every year of a contract by this Consumer Price Index. On the other side of the ledger there is depreciation, which is defined as physical observable depreciation, which is essentially a loss of value of that asset as it ages through its life cycle.

Mr. Baekey reiterated that the only binding event that occurs in all this is the condition assessment which shores up all those values at the end of the contract term. Everything between contract onset and the end of the contract term is for management purposes, to make sure to keep abreast of the changes in value from a depreciation and crediting perspective throughout the term of the contract. The key fundamental elements of the tracking tool are the allocation of possessory interest to Leasehold Surrender Interest, tracking of events that qualify for incremental LSI credit, estimating depreciation over the term of the contract, and then providing for inflationary adjustments to those values over the term of the contract. Each of those elements was explained in detail.

Tod Hull asked relative to the condition assessment, if this was to be done purely as a Park Service function during the term of the contract, and would the Park Service do that function every three years or five years.

Jo Pendry explained that the Park Service, on all of its assets, is doing complete condition assessments every five years and an annual condition assessment that is more of a visual walk-through inspection of the facility. Every five years, every Park Service asset, including Concession managed assets, will get a comprehensive condition assessment. It is Park Service policy. NPS does not have all of the condition assessments or annual condition assessments completed on all the concessions managed facilities. It is about 55 percent complete.

Mr. Baekey pointed out that the reason the condition assessment obviously is so important is because it is the basis for how Leasehold Surrender Interest is allocated to the buildings and the components. The functional elements of the condition assessment are the real property asset inventory, ensuring that the Park Service understands all of those assets that a concessioner is responsible for and has a Leasehold Surrender Interest in. The life cycle analysis and component renewal is a process by which are engineers go through and assess what the useful life of

that asset is, and at what point in time in the future that asset needs to be replaced. This is for assets that have a useful life in excess of seven years. This is particularly important in the financial investment analysis that is conducted because there needs to be enough money accruing to replace those assets at a pre-determined point in time in the future.

A multi-year maintenance and repair plan identifies the daily and routine maintenance requirements.

Uniformat is a standard that has been developed by the American Society of Testing and Materials that was endorsed to allocate and to track the value of the assets. Uniformat has several levels, Level 1, 2, 3 and 4. Illustrations were provided.

A key issue associated with the allocation is the availability of a condition assessment. The second issue is the format, the quality and the consistent condition assessment data is essential. With regard to Treatment of Deferred Maintenance, one issue right now is that deferred maintenance is identified on a building basis, as opposed to a component basis.

On the question of how to obtain credit, incremental Leasehold Surrender Interest credit can be obtained in really one of four ways. Initially, it is the conversion of the Possessory Interest over the Leasehold Surrender Interest if one is dealing with the 1965 law contract over to a 1998 law contract. There are also incremental Leasehold Surrender Interest if a concessioner funds new construction. Additionally, it can be obtained if a concessioner funds investments in a major rehabilitation, (the 50 percent rule that everybody is probably familiar with) in that in a major rehabilitation, the value of the rehabilitation needs to exceed 50 percent of the depreciable value of the existing asset. There is also incremental Leasehold Surrender Interest credit for the replacement of a fixture, as defined by a piece of non-removable equipment that a concessioner funds.

Mr. Kevin Kelly asked if a fixture is replaced and it is still in that current life cycle, will that be better to find at the field level.

Ms. Pendry said that it was the position of the court, when and if you replace it, you do not continue to get LSI

credit. Mr. Baekey provided more examples on this subject, as well as details on the LSI Crediting Process through the use of flow charts. He went on to explain that the Project Assessment is designed to identify the likelihood of credit based on project type and component of building to be addressed.

He indicated that the Fixtures and Non-Removable Equipment area in the current regulations and statutes probably poses the most confusion. The definition is, as outlined in the regulations that support the statute: *A fixture or a piece of non-removable equipment, manufactured items of personal property of independent form and utility necessary for the basic functioning of a structure that are affixed to and considered to be part of the structure such that title is with the Director's real property once installed.*

In the private sector definition, this comes right out of the Dictionary of Real Estate Appraisal, *Fixture: something added or appended to a property and has since become an inherent part of the property, usually passes with the property when title is transferred.*

It also relates to the character of the item and the adaptation to the real estate, items that are specifically constructed for use in a particular building or installed to carry out the purpose for which the building was erected.

The intent here is to try and rely on the definitions as exist in private and public sector, and evaluate the projects in their entirety based on the requirements of the submission to qualify for LSI.

Chairman Naille wanted to know how unique historical objects that are not fixed to the walls are accounted for when determining LSI. Are they considered part of the structure of the hotel such as a flint lock mounted over a fireplace or some historic objects, or stuffed animal heads around a lobby that have been there since Roosevelt's era?

Mr. Baekey indicated that in the cases where they are affixed to the realty, and where harm can be caused to the realty or that antique item, that would be determined real property. Headdresses that are in a case on display in the lobby of a hotel, as an example, that would be defined as personal property and would not get LSI credit.

Board Member Voorhees inquired if the Park Service intends to keep itself advised of how it is making judgments circumstance by circumstance.

Ms. Pendry said this was a really important point and that is the nature of the Park Service and the way it operates, and the importance in the Concessions Program ensuring that there is an understanding across the Region, and the system as a whole what the other pieces of the system are doing. That is something that has not necessarily happened in the past. It is something that this system will help track once the system is available through the Concession Data Management System (CDMS) and online. But sometimes it is going to vary from park to park, depending on the special circumstances at that park.

Mr. Baekey next discussed that depreciation estimates which will be derived on an annual basis. Depreciation is based on the amount allocated either to the building or the component and system within the building. The condition assessment, at the end of the contract, is again that only binding event that helps shore up or reconcile depreciation as it is tracked through the term of the contract. The Park Service has made a policy decision that they will be conducting condition assessments intermittently during the term of the contract with a full condition assessment every five years.

Another key issue relative to depreciation is obviously estimating the component age and remaining useful life of an asset. This true-up at the end of the contract term is going to help reconcile before any negotiation, arbitration, or final decision point, what that depreciation should be and what that ultimate asset value should be. Long life components actually appreciate in value over the term of a contract. Estimates will be done that essentially will carry through the term, and there is a built-in flexibility into the model to override those estimates to reflect real depreciation either through these interim inspections or these comprehensive condition assessments. By the end of the contract, there should be a pretty good consensus between the Park Service and the concessioner on value of those assets.

Mr. Baekey next demonstrated the tracking tool, reminding everyone to recognize that this is a work in process.

Mike Tang, PWC, stated that this tracking tool is really used internally at the Park Service to track the Leasehold Surrender Interest on a contract by contract basis. He showed a basic general overview of all the different details at Uniformat level codes and the associated LSI values, inflation, credits, depreciation, and the final value of the LSI.

Craig Erickson inquired if the Concession's Program was responsible for establishing the elements and the values associated with those elements, or the concessioner, under the new contract.

Mr. Baekey replied that the Park Service right now is funding the condition assessment under a scope of work that provides the level of detail as shown on the spread sheet. There are some inconsistencies in the way in which the data is currently being collected and reported however, they are working on bringing some consistency to that scope of work so that all of the detailed information that is collected in the field by the engineers can be uploaded into this model in the appropriate format.

Ed Potts had a question about information being available to the concessioner for agreement with the values that are assigned periodically between the beginning and the end of a contract. Mr. Baekey explained that no policy has been developed as yet, as to how that will ultimately unfold, but the intent is that as LSI values are continued to be tracked, there will be intermittent inspections or abbreviated condition assessments. This will be done with full knowledge of what the historic asset life and value has been, and to the degree to which this would be off there will be a reconciliation with the concessioner. The intent is not to reach an absolute value, because during the term there is no binding agreement, but when it is apparent that there is accelerated depreciation or that an asset life is extended beyond the manufacturer's life cycle, there should be the necessary credit or debit to that value.

Ms. Pendry interjected that every five years when the true-ups are done, while not mandatory, it is hoped that at that time it will be possible to come close to an agreement as to what the values are. Originally one of the Board recommendations was to make true-ups mandatory, and that was actually one of their original concepts, but that was

not something that actually made it into the recommendation.

The tool does not change anything that is currently in the regulation. She explained that on current LSI contracts that are in place this is the tool that will be used to track the LSI. These are contracts signed since the Act (the statute was approved in 1998) of which there are several. Changes to the regulations were proposed and once those regulations go into effect any contract signed after their effective date will be tracked in accordance with those new regulations. This tracking tool will have to be modified in order to do that tracking.

Responding to a question by Bill Butts, a discussion was held on Unifomat Level 2 versus Level 3.

Board Member Eyster commented that the work over the last few years has really brought the Park Service up to speed with the current practices and asset management. He said he was pleased to see the way the Park Service with PWC's help has moved along in this direction.

7. Proposed LSI Regulations Changes.

Ms. Pendry noted that actually these changes were voted on by the Board in their previous meeting. This presentation is the draft outline for the regulations. The process is about halfway completed and the next step will be to publish the draft regulations that will include comment, probably another 60 to 90 days.

Mr. Baekey next provided a brief overview of the proposed recommendations, which were presented at the last meeting. They cover key issues surrounding changing of some of the regulatory language. The initial recommendation for revisions to the current regulations was to focus on LSI crediting based on a source of funds concept.

Recommendation Two was to allocate to the building and component level. And Recommendation Three was to manage LSI and track the base value along with depreciation.

! Major amendments to Part 51.

! Definitions to be deleted from the regulations include the following: the definition of major rehabilitation, pre-rehabilitation value and replacement cost.

- ! Definitions to be added relate to repair and maintenance, and to clarify what repair and maintenance expenses are or should be.
- ! Allocation of LSI on a building by building and component level basis. The references to major rehabilitations will be eliminated, again relating back to the Fifty Percent Rule.
- ! LSI crediting for source of funds will provide that all CFIP projects, Concession Facility Improvement Program projects, and other concessioner funded improvements to existing structures will be credited to LSI. On the contrary, improvements funded under the Repair and Maintenance Reserve will not be credited with LSI.
- ! LSI crediting: Repair and Maintenance Reserve conforming amendments to the Repair Maintenance Reserve. Concessioner may chose to fund the improvements with his own funds with approval of the National Park Service or they may utilize funds contained within the repair maintenance reserve.

The opposite of that is the unexpended balance of the Repair and Maintenance Reserve reverts back to the Park Service in the form of additional franchise fees.

A short discussion ensued regarding clarification of the last sentence. Mr. Baekey clarified that the intent here is to give the concessioner an option to fund planned replacement of assets that created the Repair and Maintenance Fund, with their own money. But the decision there is that if you invest that money in a Park Service improvement as opposed to using the Repair and Maintenance Reserve funds, you may or may not get the return that you would get in the market, there's a risk there. But the intent here is to provide an option, a choice to do that, with Park Service approval.

A further discussion followed on this subject.

8. Concession Contracting Status Update.

Ms. Kathy Fleming reported on the projected release schedule for several prospectuses that will be coming out in 2006 and 2007. The objectives are to reduce the backlog of expired concession contracts as well as to improve the processes and procedures to make it easier for the regions

to do this in a consistent manner. The most important objective is to ensure that the contract requirements result in improved visitor services, facility condition, and resource protection. The total number of contracts has gone down to 582. In December 2004, there were 309 contracts in the backlog. At the meeting in Grand Teton (August 2005), there were 217 in the backlog. Today there are 163 in the backlog, and the efforts that the regions are putting forth today to issue prospectuses this year will reduce the backlog in December, 2006 to 73 contracts in the backlog. It is anticipated that if everything goes smoothly and as planned by the regions, 15 will be in the backlog by the end of 2007. These are some of the more difficult contracts that take a little bit more time and more effort.

Board Member Voorhees stated that the Park Service has historically gotten quite a few lumps on this one on Capitol Hill and asked if there has been any reaction coming back from this process.

Ms. Pendry reported that the Director presented or discussed it at the last concession hearing last year, and talked again about the progress being made at one of the budget hearings. There was quite a bit of support from Rob Howarth and also from Tom Lillie, and Chairman Pearce in recognition of the efforts and they were very pleased with them as well.

Ms. Fleming next handed out paperwork on the projected outlook for the next year and a half of prospectuses that will be released. She suggested to continue to check the website and keep updated.

9. Regional Concession Chiefs Update.

Kevin Apgar, Alaska Region provided his update by telephone. He reported that 13 contracts have been awarded since the last meeting. A prospectus for sixteen sport hunting guide contracts was issued, and twelve of those have been awarded, the other four are in the matching or clarification process right now. A prospectus for sport hunting guides at Noatak National Preserve in far northwest Alaska is in the works. There were two contracts in that prospectus, one was awarded and the other is in the matching process. Recently a prospectus was issued at Denali National Park for air taxis that can land on the glaciers. That one was issued February 22nd, closes May 3,

and there are five contracts in that prospectus. There is only one prospectus left and that would be for hiking guides at Denali National Park, and there will be three contracts for that.

He reported to see significant benefits for the public and the Park Service resulting from the competitive selection process. For most prospectuses there continues to be a high correlation between having a preference and getting the contracts. He stated he was implementing the new commercial use authorizations for national policy, and that process has gone very smoothly to date.

Anne Dubinsky, Chief of the Pacific West Region reported to have recently awarded three contracts in the Pacific West. A new concessioner for the Alcatraz Island boat service was also selected. She listed new prospectuses being issued for various locations with two prospectuses on the streets right now. One is for Mount Rainier for a climbing guide, and that covers three contracts, and one for pack stations at Sequoia National Park.

Much time and energy is spent on condition assessment and on understanding the asset base, understanding how to manage that. This region is focusing on commercial services plans, all in Hawaii.

Tom Williamson from the Intermountain Region provided an update on two major topics. One is prospectus development and the other topic is on some of the outreach with some of the parks to help with contract administration.

Three awards include the Bandelier retail operations, the Glen Canyon float trips, and the Marina. He listed the various contracts coming up for consideration. Some very large contracts will be coming up in the next couple of quarters. Some of the timing of that is dependent upon when the Colorado River Management Plan finally gets signed. With regard to training, the region has started to do a little more outreach to the park concession folks to provide more training.

Ms. Lavelle of the Intermountain Region reported there has been very active reaching out to the park staff, asking them what it is that they need, and what it is that they would like to be provided with. The primary response was

for need of training in specific areas. A series of audio workshops will be started internally to make sure that they are getting the skills that they need, that they understand what the program responsibilities are, and they understand what the Washington office has said that they need to do to fulfill the duties of their job.

Sandy Poole from the Midwest Region reported that the latest prospectus awarded is Apostle Islands Tour Boats, where a contract operator did not have a right of preference. There were three more smaller contracts awarded that did have a right of preference: tour boat at Voyageurs National Park, hostel at Cuyahoga Valley, Ohio, and then a restaurant and historic cabins at Buffalo Point in Arkansas.

The next prospectuses anticipated very soon are Sleeping Bear Dunes, which is another tour boat, Manitou Island Transit in Michigan, Theodore Roosevelt, North Dakota, horse livery operation, and the two smaller tour boats at Isle Royale National Park. The CUA program has been implemented, and the leasing program is pretty significant in the region.

She reported benefiting from tying in with Intermountain Region on some of the training.

Pam McLay, Chief in the Northeast Region stated they have one prospectus advertised for Boston. There is an ongoing process of drafting two prospectuses right now, one for Cape Cod, and one for Eisenhower, a tour operator. Offers are being received from the three prospectus development IDIQ contractors for the Statue of Liberty prospectus development. She reported working with the Appraisal Service Directorate and ERA for the Shenandoah prospectus development work, specifically for the appraisal scope of work to get the possessory interests appraisal completed.

Ms. Pendry introduced a new face in the Concession Program. Many of the regional chiefs mentioned that they had been focusing on hiring new staff at the regional offices. The Southeast Region recently hired Ben Hanslin. Ben has a background of having worked for the Park Service and then he also worked in the private sector for a little while working on prospectus development from the consultant's perspective, and he's only been in the region about three months now.

Ben Hanslin of the Southeast Region reported on a business assessment at the Blue Ridge Parkway, with prospectuses coming out sometime early next year. Work is being done on a commercial services plan over at Cape Lookout, and for Great Smokies National Park funding has been drafted for five prospectus development contracts that should be out before the end of '06. The Wright Brothers prospectus will be coming out, which has been a while in the making, but should be out soon, probably within the next month or so. Work has commenced on CUAs with Intermountain, figuring out guidelines, how to limit them and how to continue with the CUA process.

Steve Lebel, National Capitol Region stated he expected over a million visitors in the next three weeks to see the cherry blossoms in D.C. He reported that he was actively engaged in addressing all of the outstanding contracts. The National Mall Memorial Parks is undertaking a visitor transportation study to determine the transportation needs of the National Mall and surrounding parks, drafted environmental assessment for that study, and it is now on to review. George Washington Memorial Parkway is undertaking an environmental assessment to determine the balance of park needs and the protection of Dyton Marsh. The study is now engaged in itemizing resource impacts, a record of decision is expected in 2006. The results of both of these studies will determine the direction for contracting.

The release of a prospectus for food service, food carts on Pennsylvania Avenue National Historic Park is anticipated, and the release of the prospectus for Buzzards Point Marina in National Capitol Park within the next 60 days, these are both under legal review. He further reported work on various other projects in his region, including work on leasing program.

10. Standards, Evaluations and Rate Approval Program Report. Wendy Berhman, WASO Concession Program provided an update on the standards evaluation and rate approval (SERA) process. This effort dates back to 2002 and established a working group to look at the Concession Review Program which focuses on the operational standards, the evaluations which are used to gauge concessioner performance and compliance with concession contract requirements. The Concessions review Program also includes a sub-set of information on the rate approval program.

In October a new task order was instituted to keep this process moving forward and to refocus efforts for identifying more specific deliverables under the SERA process. Work tasks to be addressed include: addressing the comments received so far on those draft operational and facility standards developed for the four assets; looking at better defining operational standards, facility standards and maintenance standards, and what each should include and cover, as well as developing draft maintenance standards for these four key asset categories.

As part of this effort there was a need to look at the general standards that are currently used by concession staff and include risk management and public health. In the future there will be an additional environmental general standard. Part of the effort requires pulling together all of the existing resources on these areas. PWC has started to do the research on these topics and over the next month there will be a meeting with the representatives from those program areas to get an understanding of the current processes that are in place to do public health inspections, risk management evaluations, and how to account for environmental management. The general standards will be updated, or developed in the case of environmental management through the SERA process, resulting in the new standards and tools for staff to help them do the operation evaluations in the field.

Ms. Berhman listed the progress made in the various areas, including the Clean Marina Guidance. She mentioned that the Park Service decided to take the marina guidance developed by the National Capital Region and update it so it could be applicable as a national guidance, and address issues specific to concession operations.

The new task order also includes reviewing and updating the existing rate approval program. PwC will be looking at the six current rate methods that the Park Service utilizes to review concessioner proposed rates, and comparing them against what industry is currently doing to see if some of them are out of line or if there are better ways of doing business. Ms. Berhman provided further details on pilot programs.

A discussion followed on Competitive Market Declarations (CMD) and the mark-up method for rate approval. A new memo was issued March 2006 with updated

mark-up percents to be used for the 2006 operating season for concessioner rates and re-issuing CMD guidance. Ms. Berhman further indicated that future guidance on the mark-up rate method will provide more direction on categorizing merchandise based on the key categories identified in the National Convenience Store reference.

11. Electronic Annual Financial Report Update.

Robert Hyde of the WASO Concession Program used a slide presentation to provide the Board with an update on the automation of the Annual Financial Reports (AFR). In conjunction with this automation, some changes have been made to the annual financial form because of changes in the law, including the establishment of LSI, new GAAP accounting rules, and an attempt to require greater maintenance and statistical information. The short form is being upgraded to better track with the long form to allow better comparisons and provide greater consistency.

Mike Tang continued with a presentation of the electronic reporting software that concessioners will use on an annual basis to file their financial information with the Park Service. He provided a brief overview of the current process, which is all paper-driven and a pretty time-consuming process, allowing for redundancy and a lot of errors in the data entry process.

He explained the difference between the short form and the long form.

Board Member Eyster inquired what provisions there are for a third party audit for the data that will be submitted.

Ms. Pendry explained that the provisions for audits will remain the same so that the concessioner will need to follow-up their electronic submittal with a mailed copy of their smaller audited report, for whichever level they're required to do based on the dollar threshold policy. Those provisions remain in place.

Ted Potts inquired if the report generation under discussion will be available to the concessioners and, if so, how will they keep track of their own reports if they are being entered on this Excel file.

Mr. Tang explained this would be an internal tool for the Park Service and it would be really up to them if they

decide to issue a report back to the concessioners. What the concessioners will be able to do, is after submittal, to print out a hard paper copy of what was just submitted thereby creating that record. Or else they can just save it in a normal Excel spreadsheet.

Ms. Pendry explained that a future goal is to have an automated system that downloads the information from the concessioner's financial system into a web-based system that then is automatically transmitted to the Park Service.

Mr. Tang continued to provide detailed information on the system under discussion, going through all the schedules, step by step.

Chair Naille commended Mr. Hyde and Mr. Tang on their presentation and indicated he was thoroughly impressed with the entire program.

A short discussion followed on lodging format in the reports.

12. Superintendent's Training Project.

Wendy Berhman referred to the Board's recommendation to develop a superintendent's training. The key goal that was recommended by the Board was to ensure that park superintendents understand what Concessions means within their park, understand their responsibilities for managing, and understand the integration of Concessions within their overall responsibilities at the park level, meaning that Concessions touches every single program within a park. There needs to be that awareness at the superintendent's level of how concessions can/should best be integrated.

The Board had also identified some specific elements to be addressed in the training such as:

- ! The issues of management of the assets assigned to concessioners.
- ! Understanding the prospectus and contract development process.
- ! Understanding roles and responsibilities related to daily oversight of those concession contracts.

The scope of work for the Superintendent's training, which was subsequently awarded to PwC to help develop, identified nine key areas that superintendents needed to be aware of, as far as their concession management responsibilities. The first step in this process was to

interview a number of stakeholders to truth test what knowledge was out there and what gaps existed, so a training could be developed that addressed those gaps. The interview process occurred and 44 interviews were held with anonymity guaranteed. PWC collated all that information and compared it against those nine subject areas defined in the scope of work. Ms. Berhman showed slides detailing the findings. These findings included training in the delegations of authority, funding source issues, commercial services planning, prospectus development, contract evaluation panels, reasonable profits, contract oversight, asset management, financial management, environmental management and concessions staff training.

13. Concession Program Human Capital Strategy.

Mr. Peter Fondry, Associate Regional Director, Administration of the Southeast Region presented a discussion on the development of an effective strategy to recruit and retain a workforce by developing a database that will assist in the process of moving forward with the human capital strategy. He touched on the concept of a circuit rider. He emphasized that a balanced staffing plan is vitally important to an effective human capital strategy. Any effective strategy has to start with a basic fundamental measure of accurate information. He proposed a workload and workforce analysis, which has actually begun. The concept is not new, the concept of workforce and workload analysis is central to several current NPS initiatives, including the business planning, the core operations analysis, which is the most current version of what many might consider an operations evaluations in park as well as the business plan.

Mr. Fondry outlined the steps necessary to what the program is going to do in this phase, which determine what the needs are, what they do, and how competently things get done. And part of that process is conducting a survey.

Ms. Jontos next presented details on three sections (1) the characteristics of successful park level concessions specialists, (2) training needs and suggestions, and (3) current concessions challenges at the park unit level.

She also mentioned, as part of the concessions challenges, workload issues. One was the amount of paperwork in conjunction with not having enough staff in

the program generally. The circuit rider concept was definitely endorsed as a great way to kind of get around the collateral duty in smaller parks issues, and to keep one person working in multiple parks who is really up to date on all the concessions issues. She pointed to the turnover among concessioner staff, and particularly when concessioner staff was new to the Park Service system, or new to their particular company, requiring a lot of ramp up time on the part of the concessions specialist in the park unit.

A discussion ensued on this subject.

14. Interim Commercial Use Authorization Regulations.

Kathy Fleming indicated that at the August Board meeting a request was made for an update on the CUA process. She provided a brief review of the legislative requirements that were given by Congress. The two top issues are the most difficult. They are the ability of the NPS to limit commercial use authorizations and that non-profit institutions which derive no taxable income are not required to obtain the CUA. Some of the other general provisions which are causing concern, are that CUA's are not concession contracts, no construction may be authorized, the law limited the term to two years or less, that there no preference for renewal except as provided within ANILCA, specific to Alaska, NPS must charge a reasonable fee. Services must be accomplished in a manner that preserves and conserves park resources and values, and that the liability of the United States is limited. In the fall of 2005 this authority was implemented. Specifically, there was interest within the NPS in the authority to issue in-park CUAs that allows for the issuance of these permits for activity that grosses less than \$25,000 a year. It was important to the parks to have some guidance on that, as well as the ability to limit the number of permits.

There is now a refocus on issuing the new draft proposed rule which will be finalized and go out for review to the working group that was established as a subgroup to the Advisory Board. Dick Linford is the chairperson of that group.

Ms. Pendry pointed out that, by law, WASO does not have to issue regulations for CUAs, but chose to issue regulations for the interim CUAs. And so the interim guidelines do nothing but basically put out the information

that's in the law, because it was important to get public comment and public feedback on how to implement the CUA guidance.

Ms. Fleming continued with an overview of the interim guidelines, and the broad, general implementation of Section 418 of the law. It allows park officials to issue CUAs under the criteria established in the law to a qualified person, and to ensure that these services have minimal impact on the resources, and that the activities are consistent with park resources and values, planning documents and those kinds of things. It also implements the authority to issue the new type of CUA, which is the in-park where gross receipts are less than \$25,000 a year. The superintendents by law are not allowed to issue more permits than are consistent with the preservation and proper management of park resources and values. And when they are limited, there are additional oversight responsibilities. The interim guidelines require the superintendent to consult with their regional concession offices in order to understand how to limit them and then select the limited number of permittees. The new draft rule includes some changes that were made based on the working group's efforts and the comments that were received. It is proposed in the new draft rule that the limitations are established through compliance with other policies in the Park Service, particularly planning and compliance guidelines, so there is civic engagement and public involvement during that process to determine the number of permits.

The other fairly significant change is that commercial tour operators will be subject to a CUA. The previous rule said that they were not subject to a CUA. Another very significant area where comments were received was on the concept of random selection when you did limit the number of permits. The industry didn't really care for that idea, and the revised rule currently requires the establishment of criteria related to the experience and qualifications of the potential operator to provide the service.

Some definitions were replaced in the new draft rule.

Other concerns that were strongly expressed from the industry were to simplify the fee structure and make the permit process a lot more efficient for them. With regard to the authorization for non-profit, where taxable income is not derived from the activity, the legislation says that

these kinds of operators are not required to have a CUA, so the draft rule now says, and actually the earlier rule said this too, that some sort of authorization is required. The interim guidelines lead the parks to special park uses authority. Additional authority is under 36 CFR 5.3, and says that any kind of activity that is conducted that is commercial, is subject to a permit.

The next step is to finalize that new draft proposed rule, and it will be vetted through the working group again as well as internally to regions and the Solicitor's office, and then it will go through that rule-making process. Then once the comments are received after the publication and the Federal Register will reconvene another working group to address the comments again, and publish a final draft rule.

The Intermountain Region CUA monthly audio conference was very helpful and there will be continued monthly calls.

15. Agenda for the next meeting.

Chair Naille asked for input for the next meeting's agenda. There were no specific items offered.

16. Adjournment.

The meeting was adjourned at 5:10 p.m.